UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/AC.2/1999/6
3 June 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Contemporary
Forms of Slavery
Twenty-fourth session
23 June-2 July 1999
Item 4 of the provisional agenda

REVIEW OF THE IMPLEMENTATION OF AND FOLLOW-UP TO THE CONVENTIONS ON SLAVERY

Consolidation and review of the Conventions on Slavery

Executive summary of the working paper prepared by David Weissbrodt and Anti-Slavery International

1. At its twenty-third session the Working Group on Contemporary Forms of Slavery "asked David Weissbrodt and Anti-Slavery International ... to prepare a comprehensive review of existing treaty and customary law covering all the traditional and contemporary slavery-related practices and relevant monitoring mechanisms" (E/CN.4/Sub.2/1998/14, para. 22).

2. The present executive summary provides a brief overview of the 87-page working paper which was prepared in response to that request of the Working Group. (Particular thanks are due to Norah Gallagher, Marcela Kostihova and Mary Thacker for their assistance in preparing the working paper.) The working paper first introduces the subject by tracing the core international law against slavery: its origins and the progress of the international campaign to abolish the slave trade and slavery; the legal instruments and institutions which have been established to combat slavery (including the Working Group on Contemporary Forms of Slavery); the evolving definition of slavery, contemporary forms of slavery and other related practices. The working paper then focuses particular attention on serfdom, forced labour, debt bondage, migrant workers, trafficking in persons, prostitution, forced marriage and the sale of wives, other issues, international monitoring mechanisms, and tentative conclusions and recommendations.

GE.99-13596 (E)

I. CORE INTERNATIONAL LAW AGAINST SLAVERY

3. Although slavery has existed since ancient times, the 1815 Declaration Relative to the Universal Abolition of the Slave Trade was the first international instrument to condemn it. The abolitionist movement started in an effort to stop the Atlantic slave trade and to free slaves in the colonies of European countries and in the United States of America. Although many believe that slavery has been abolished, various forms are still common at the end of the twentieth century.

4. There exists a large number of agreements, both multilateral and bilateral, dating from the early nineteenth century containing provisions that prohibit such practices in times of war and peace. It has been estimated that between 1815 and 1957 some 300 international agreements were implemented relating to the suppression of slavery. None has been totally effective.

5. The League of Nations was very active in its work to eliminate slavery. The United Nations took over this role after the Second World War, and as a result slavery in all its forms was firmly established as a gross violation of basic internationally recognized human rights. It is now a well-established principle of international law that the prohibition against slavery and slavery-related practices has achieved the level of customary international law and has attained jus cogens status. In the Barcelona Traction case the International Court of Justice identified the protection from slavery as one of two examples of obligations erga omnes arising out of human rights law.

6. The first definition of slavery in an international agreement appears in the League of Nations Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention of 1926 (the "Slavery Convention of 1926"). Article 1 (1) sets out the definition of slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised". The Slavery Convention of 1926 also prohibits all aspects of the slave trade. While article 1 of the Slavery Convention of 1926 may appear relatively restrictive in its definition of slavery, article 2 requires States parties "to bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms".

7. Although the Slavery Convention outlawed slavery and associated practices, it not only failed to establish procedures for reviewing the incidence of slavery in States parties, but also neglected to create an international body which could evaluate and pursue allegations of violations.

8. The period before and just after the Second World War also saw the adoption of a series of international conventions concerning the traffic of women for prostitution. These abuses were not mentioned in the Slavery Convention.

9. Following the establishment of the United Nations, the General Assembly in 1948 adopted the Universal Declaration of Human Rights, article 4 of which states: "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms."

10. The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 (the "Supplementary Convention") went further and covered more ground than the 1926 Convention. The provisions of article 1 oblige States parties to abolish certain institutions and practices analogous to slavery which are referred to collectively as "servile status" including debt bondage and serfdom:

"(a) Debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined;

"(b) Serfdom, that is to say, the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status;

"(c) Any institution or practice whereby:

"(i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any person or group; or

"(ii) The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or

"(iii) A woman on the death of her husband is liable to be inherited by another person;

"(d) Any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour."

11. The Supplementary Convention of 1956 augments but does not replace the definition of slavery in the Slavery Convention of 1926. Although there have been subsequent appeals to redefine slavery in today's world, the combined definition in these two conventions has remained.

12. The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights contain provisions relating to slavery and its prohibition. Article 6 of the former Covenant recognizes the right to work "which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts". Articles 7 and 8 of this Covenant set out conditions and rights that must be protected by the States parties such as fair wages and equal remuneration for work of equal value and the right to form and join trade unions. The latter Covenant in article 8 prohibits slavery and servitude just as does the Universal Declaration. This provision comprises one of the non-derogable rights (even in times of public emergency).

13. The most recent reference to slavery in an international instrument is in the Final Act adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court in July 1998. Enslavement is deemed to be a crime against humanity which falls under the jurisdiction of the Court. Enslavement is defined in article 7 (2) (c) of the Rome Statute as "the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children". This definition is largely the same as the first definition adopted by the League of Nations over 60 years ago with the addition of a specific reference to trafficking.

A. Main characteristics of slavery

14. A common theme exists in all of the conventions concerning the abolition of slavery and slavery-like practices which relates to the concept of ownership. The fundamental characteristic of slavery is that it deprives the slave of his or her freedom of movement and the ability to make decisions for him- or herself, as well as of many other fundamental freedoms. It is, therefore, understandable that the concept of ownership pursuant to which the enslaved individual loses all control over his or her own life and labour was considered a central issue in identifying slavery by the international community. It can be argued that the use of the phrase "any or all of the powers attaching to the right of ownership" was intended to give a more expansive and comprehensive definition of slavery which would include not just the forms of slavery involved in the African slave trade, but also practices of a similar nature and effect. It is clear that the aim of the Slavery Convention of 1926 was to eliminate all forms of slavery, however they arose, given its severe and often irreversible effect on the individuals affected.

15. The concept of ownership has resulted in slaves sometimes being described as "chattels". Traditional slavery was referred to as "chattel slavery" on the grounds that the owners of such slaves were able to treat slaves as if they were possessions. Such practices are extremely rare nowadays and the criterion of ownership may obscure some of the other characteristics of slavery, which are associated with the complete control to which a victim of slavery is subjected by another human being, and which are implied by the Slavery Convention's actual wording, "any or all of the powers attaching to the right of ownership".

16. It is clear that the circumstances of the enslaved person are crucial to understanding and identifying what practices constitute slavery. In this regard there are certain conditions that must be considered, including: the degree of restriction of the individual's inherent right to freedom of movement; the degree of control of the individual's personal belongings; and the existence of informed consent and a full understanding of the nature of the relationship between the parties. It will become apparent that these elements of control and ownership, often inflicted with the threat of violence and accompanied by ongoing abuse, are central to identifying the existence of slavery. The migrant worker whose passport has been confiscated by his or her employer, the child sold into prostitution or the "comfort woman" forced into sexual slavery - all have the element of choice and control of their lives taken from them and passed to a third party, either an individual or a State.

17. As the use of intimidation, coercion, or force is frequently cited as a reason for categorizing particular forms of exploitation as slavery, the question of whether economic imperatives - a need for money or income - constitute a form of "force" is pertinent. The question is raised in various contexts, but chiefly in relation to traffic in women and exploitation of prostitution. It is not only in relation to prostitution that these questions are raised. For example, some bonded labourers could potentially escape their bonded status by leaving the community in which the person responsible for their bondage (their employer) has influence. No physical forms of constraint or barriers prevent them leaving. Economic and social considerations, however, along with a lack of awareness of what might happen to them and their families, mean that they do not leave.

B. Violations of other fundamental rights associated with slavery

18. The process of enslavement, as well as, in many cases, the treatment of victims of slavery, servile status and forced labour, is often accompanied by many other violations of human rights: for example, flogging workers, keeping them in chains, giving them no payment, or giving them only just enough to pay for meals and accommodation.

19. The classic process of enslavement, involving either abduction or recruitment through false promises or duplicity, involves a violation of the individual's right to liberty and security of person, as guaranteed by article 9 of the International Covenant on Civil and Political Rights, together in many cases with a violation of the right of a person deprived of his/her liberty to be treated with humanity and of the right not to be subjected to cruel, inhuman or degrading treatment.

20. On a number of occasions, victims of slavery are reported to have "disappeared" while being trafficked or held in slavery. The Supplementary Convention of 1956 explicitly prohibits "the act of mutilating, branding or otherwise marking a slave or a person of servile status in order to indicate his status, or as a punishment, or for any other reason ...". Other forms of ill-treatment, including beatings and other corporal punishment, are a violation of the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Their occurrence is an aggravating factor, providing indication that slavery or forced labour is likely to be occurring, but by itself is not sufficient evidence that slavery is taking place, just as its absence should not be interpreted as evidence that slavery is not taking place.

21. Victims of slavery, servile status and forced labour are, almost by definition, deprived of their right under article 12 of the International Covenant on Civil and Political Rights to liberty of movement and freedom to choose their residence, just as they are deprived of their right to gain a living by work which they freely choose or accept, under the terms of article 6 of the International Covenant on Economic, Social and Cultural Rights. Almost invariably they are deprived of or prevented from exercising their right to access to the courts and to fair trial by their owners, controllers, employers, or by the authorities themselves acting in complicity with those who are exploiting them.

22. The list of aggravating circumstances of abuses of fundamental rights which accompany slavery and related abuses is almost endless. In the harshest cases it includes depriving individuals of their identity (by giving them a new name, often one associated with a different religion or ethnic identity), obliging them to speak a new language, and forcing them to change their religion or subjecting them to coercion in violation of article 18 of the International Covenant on Civil and Political Rights. Some extreme cases also involve preventing individuals from exercising their right to marry and to found a family, notably when the victims are women who are forced to act as the mistresses or concubines of the men who control them, or are forced to remain in prostitution. Virtually all cases involve violations of the victims' freedom of expression, their right to receive and impart information, their right of peaceful assembly, and their freedom of association.

23. In some societies slaves have been prevented from owning or inheriting property. Former slaves, their descendants, or others regarded socially as having slave status are subjected to a wide range of forms of discrimination in many societies. There is a substantial overlap in the obligations on Governments to take measures against such discrimination with their obligations to combat racism and xenophobia, in general.

II. SERFDOM

24. Serfdom was identified as a form of "servile status" by the Supplementary Convention of 1956. It was pointed out by the Working Group on Contemporary Forms of Slavery that existing land tenure regimes "taken in all their aspects, legal, economic, social and political, can in certain circumstances be seen as oppressive power relationships arising from ownership or use of land and disposition of its products to create forms of servitude and bondage" (E/CN.4/Sub.2/AC.2/1985/WP.3/Add.1).

III. FORCED LABOUR

25. The use of forced labour has been condemned by the international community as a practice similar to, but distinct from slavery. The League of Nations and the United Nations have made a distinction between slavery and forced or compulsory labour and the International Labour Organization (ILO) was given principal responsibility for the abolition of the latter.

A. International Labour Organization

26. The ILO has adopted some 181 conventions in the international labour code ranging from maternity protection issues to protection of the most vulnerable and poverty stricken labourers. The ILO has four fundamental principles which it aims to achieve, namely: the elimination of forced labour; freedom of association, including the right to a trade union; the effective abolition of child labour; and the ending of discrimination in employment.

B. Forced labour conventions

27. The Forced Labour Convention (No. 29), 1930 provides for the abolition of forced labour. It defines forced or compulsory labour in article 2 (1) as meaning "all work or service which is exacted from any person under the menace

of any penalty and for which the said person has not offered himself voluntarily". It is clear from this description that forced labour as understood by the international community does not include a concept of ownership as does slavery. Yet the practice imposes a similar degree of restriction on the individual's freedom - often achieved through violent means.

28. The Abolition of Forced Labour Convention (No. 105), 1957 provides for the immediate and complete eradication of forced labour in specific circumstances. Article 1 imposes an obligation on States parties to suppress the use of forced labour for political purposes, for purposes of economic development, as a means of labour discipline or punishment for strike action and as a means of discrimination. ILO Convention Nos. 29 and 105 (collectively referred to as the "ILO forced labour conventions") concerning the abolition and control of forced labour are essentially the only international instruments that set out a definition of forced labour, although its prohibition is endorsed by many treaties, both international and regional.

29. It should be noted, however, that not all forms of forced labour are prohibited under the ILO forced labour conventions. Article 2 (2) of ILO Convention No. 29 sets out certain specific exemptions which otherwise would have fallen under the definition of forced or compulsory labour. The ILO forced labour conventions do not prohibit prison labour but they do place restrictions on its use. ILO Convention No. 29 exempts from its provisions "any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country" and excludes "any work or service exacted in virtue of compulsory military service laws for work of a purely military character". The right of a Government to exact forced labour in times of emergency is exempted from the forced labour conventions. Examples of such circumstances include "war or a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic ...". ILO Convention No. 29 also exempts minor communal services "being performed by the members of the community in the direct interest of the said community".

C. International Bill of Human Rights and other relevant human rights instruments

30. In addition to the two International Covenants on Human Rights, the General Assembly adopted the International Convention on the Suppression and Punishment of the Crime of Apartheid in 1973, outlawing a number of inhuman acts committed for the purpose of establishing and maintaining domination by one racial group over any other, including exploitation of the labour of the members of a racial group or groups by submitting them to forced labour.

31. Regional agreements have subsequently come into force which contain provisions similar to those of the two Covenants, such as the American Convention on Human Rights (art. 6) and the African Charter on Human and Peoples' Rights (art. 5). In X v. Federal Republic of Germany, the European Commission on Human Rights identified two factors that must be present when considering forced or compulsory labour: "firstly, that the work is performed against the complainant's will and secondly, that the work entails unavoidable hardship to the complainant".

32. Other categories of practices similar to slavery that have over the years been incorporated into the forced labour concept by the ILO include debt bondage and child labour. These categories are dealt with under separate headings below.

IV. DEBT BONDAGE

33. The Supplementary Convention categorizes the practice of debt bondage as one resulting in a "servile status" and obliges the States parties to implement national provisions to abolish it on a systematic basis.

34. Although the ILO did not include debt bondage in the definition of forced labour in ILO Convention No. 29, the ILO includes debt bondage as a form of forced labour which must be eradicated as it is a practice which has a similar effect on the victim's freedom of employment. The proposed new draft convention concerning the prohibition and immediate elimination of the worst forms of child labour specifically includes debt bondage and its suppression. ILO Convention (No. 117) concerning Basic Aims and Standards of Social Policy, 1962 is particularly concerned with reducing forms of wage payment that foster indebtedness. The objective of ILO Convention (No. 131) concerning Minimum Wage Fixing with Special Reference to Developing Countries, 1970, and its accompanying Recommendation No. 135, is to give wage-earners the necessary social protection in terms of minimum permissible levels of wages. ILO Convention (No. 95) concerning the Protection of Wages, 1949 requires wages to be paid regularly by employers and prohibits methods of payment that deprive workers of the genuine possibility of terminating their employment.

35. Debt bondage or bonded labour still exists today affecting millions of adults and children in their own countries and migrant workers throughout the world. In view of the prevalence of bonded labour among the landless in rural areas, Governments may in some instances have to reform the existing land tenure systems in order to comply with their obligation under the Supplementary Convention to prevent debt bondage.

V. MIGRANT WORKERS

36. While all the existing instruments concerning slavery, servile status and forced labour apply to aliens and migrant workers as well as others, certain mechanisms of exploitation and forms of abuse affect migrant workers in particular and require special remedial action. Migrant workers are subjected to a wide range of abuse and discrimination, most of which do not constitute slavery, servitude, or forced labour. The International Convention on the Rights of All Migrant Workers and Members of Their Families was adopted by the United Nations in 1990 in an attempt to counter these practices. The ILO has also adopted a series of conventions to address the employment of migrant workers.

VI. TRAFFICKING

37. The International Convention of 4 May 1910 for the Suppression of the White Slave Traffic imposes an obligation on the parties to punish anyone who recruits a woman below the age of majority into prostitution even with her

consent. Article 1 of the International Convention of 11 October 1933 for the Suppression of the Traffic of Women of Full Age establishes a duty to prohibit, prevent and punish the trafficking of women even with their consent.

38. The 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (the Suppression of Traffic Convention) consolidated the earlier instruments relating to the "white slave trade" and traffic in women and children and forms the legal basis of the international protection against the traffic in persons today. The Suppression of Traffic Convention makes it an offence for a person who "[P]rocures, entices or leads away, for the purposes of prostitution, another person, even with the consent of that person." It is clear from the terms of the Convention that the recruitment does not need to be across national or international borders but could, in fact, be within a country. Article 1 of the Convention requires the woman or man being trafficked to have been recruited "to gratify the passions of another" and "for purposes of prostitution". The suggestion has been made that the requirement concerning the intentional character of the offence creates practical difficulties in implementation, and that "additional instruments should be envisaged to mitigate in certain cases that requirement concerning the subjective aspect of the offence" (E/CN.4/Sub.2/L.640, para. 89). As early as 1965 the International Criminal Police Organization (INTERPOL) recommended to the United Nations that the Suppression of Traffic Convention "be supplemented so as to cover cases of 'disguised traffic' (engaging persons for employment abroad that exposes them to prostitution)" (E/CN.4/Sub.2/AC.2/1982/13, p. 34). The suggestion was not, however, pursued.

39. There have been various suggestions since the Suppression of Traffic Convention was adopted in 1949 that the definition of "traffic in persons" should be extended to cover forms of recruitment which are not directly linked to prostitution, and also the movement of persons across international frontiers for purposes other than prostitution when they are subjected to coercion or are deceived about the nature of the work which awaits them.

40. The Convention on the Elimination of All Forms of Discrimination against Women includes in its article 6 the obligation that States parties suppress trafficking in women. In the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993, it was agreed that "[G]ender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudices and international trafficking, are incompatible with the dignity and worth of the human person, and must be eliminated." The Declaration on the Elimination of Violence against Women also forbids "trafficking in women".

41. The trafficking of children is specifically prohibited under article 35 of the Convention on the Rights of the Child. The Inter-American Convention on International Traffic in Minors, adopted by the Organization of American States (OAS) on 18 March 1994, defines the scope of traffic (or trafficking) in children in greater detail than any other instrument.

42. An open-ended working group established by the Commission on Human Rights is having difficulty reaching agreement on the meaning of such terms as the "sale of children", "child prostitution" and "child pornography" in its ongoing effort to draft an optional protocol to the Convention on the Rights of the Child.

43. In 1998 the General Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration, as appropriate, of international instruments addressing trafficking in women and children and illegal trafficking in and transporting of migrants, in addition to other issues such as illegal trafficking in firearms.

44. The Working Group on Contemporary Forms of Slavery has recognized the variety of circumstances in which trafficking occurs, adopting at its 1998 session one recommendation dealing with "Traffic in persons and exploitation of the prostitution of others", and another dealing with "Prevention of the trans-border traffic in women and girls for sexual exploitation". In the latter the Working Group explicitly declared that "trans-border trafficking of women and girls for sexual exploitation is a contemporary form of slavery and constitutes a serious violation of human rights".

VII. PROSTITUTION

45. The Suppression of Traffic Convention requires States to punish "any person who, to gratify the passions of another ... procures, entices or leads away, for purposes of prostitution, another person ..." or "otherwise exploits the prostitution of another person". The prohibition on procuring and the exploitation of prostitution refers both to cases in which the prostitute is subjected to some form of coercion, and to acts carried out "even with the consent of that person" (that is, the man or woman involved as a prostitute).

46. International standards do not contain a definition of prostitution, leaving room for uncertainty about the extent of the activities covered (i.e., acts of sexual intercourse, or also other acts or services of a sexual nature). Prostitution is most commonly interpreted according to its ordinary meaning, that is "any sexual act offered for reward or profit". The language used in the Suppression of Traffic Convention makes it clear that the reference to prostitution includes men practising prostitution, as well as women and children under the age of 18.

47. Prostitution itself is not explicitly prohibited by international standards when it involves men or women aged 18 or over practising as prostitutes, and States are not required to punish prostitutes. The Suppression of Traffic Convention states that prostitution and "the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community ...", implying, but not specifying that the act of prostitution should be discouraged. Reporting to the United Nations Commission on the Status of Women in 1983, the Special Rapporteur on the suppression of the traffic in persons and the exploitation of the prostitution of others noted that he chose to take "the human rights approach", from which point of view, he suggested, "we, like the Commission on Human Rights, consider prostitution to be a form of slavery" (E/1983/7, para. 17).

48. Most other international instruments are clear in requiring action against "the exploitation of prostitution" (emphasis added) by others, and it

is usually in this context - of exploitation of prostitutes for profit, and with it the possibility that the prostitute is manipulated or subjected to coercion - that the exploitation of prostitution is considered to be related to slavery. The Convention on the Elimination of All Forms of Discrimination against Women, for example, requires States parties to suppress the "exploitation of prostitution of women".

49. While there is continuing debate about whether adult prostitution should be tolerated in some circumstances, there is no such equivocation in relation to children. The Convention on the Rights of the Child is clear in prohibiting "all forms of sexual exploitation and sexual abuse".

50. The concept of sexual slavery is closely related to forced prostitution but is a separate and distinct form of sexual exploitation. There does not have to be any financial gain in sexual slavery; it is merely the imposition of absolute control or power of one person over another. It is the sexual exploitation of individuals through the use or threat of force, often occurring in times of war, armed conflict, or belligerent occupation. Sexual slavery violates the fundamental guarantees of basic human rights in the International Bill of Human Rights and the Four Geneva Conventions of 12 August 1949 for the protection of victims of war applicable during periods of armed conflict.

VIII. FORCED MARRIAGE AND THE SALE OF WIVES

51. The Supplementary Convention of 1956 identifies institutions or practices akin to slavery to which women can be subjected in the context of marriage. These practices also violate the Universal Declaration which provides, "Marriage shall be entered into only with the free and full consent of the intending spouses."

IX. CHILD LABOUR AND CHILD SERVITUDE

52. A number of international standards address the issue of the exploitation of children's labour, in particular by seeking to prohibit employment below a specified minimum age. Other standards identify circumstances or conditions in which no children may be employed. Not all forms of child labour fall within the definition of slavery or servitude.

X. OTHER ISSUES

53. There are a number of other issues which have been considered by the Working Group on Contemporary Forms of Slavery: apartheid, colonialism, trafficking in human organs and incest. Although these practices generally constitute serious violations, they may not all fall within the ambit of the international conventions abolishing slavery.

XI. INTERNATIONAL MONITORING MECHANISMS

54. International human rights law has evolved a number of mechanisms for ensuring implementation and monitoring. Since 1966 all major human rights treaties have provided for an expert body, such as the Human Rights Committee under the International Covenant on Civil and Political Rights, to oversee

implementation of their respective multilateral conventions by receiving and reviewing periodic reports from the States that have ratified the relevant human rights treaties. Under the authority of the Charter of the United Nations rather than based upon a specific human rights treaty, the Commission on Human Rights has developed several additional mechanisms for monitoring human rights. One of the most visible measures which the Commission can take with respect to a violating Government is to establish a special rapporteur, special representative or working group to investigate and publish a report on the situation. In addition, the Commission has established thematic special rapporteurs and working groups to deal with particular kinds of violations. The Sub-Commission on Prevention of Discrimination and Protection of Minorities has, as authorized by the Economic and Social Council and the Commission on Human Rights, established three inter-sessional working groups on contemporary forms of slavery (1975), indigenous populations (1982) and minorities (1995).

55. The principal monitoring system of the ILO is based on reports received from Governments and is exercised by the Committee of Experts on the Application of Conventions and Recommendations. Article 22 of the ILO Constitution requires that all States report periodically on the conventions to which they are parties. The second type of supervision exercised by the ILO involves an investigation into allegations that a State has failed to comply with its obligation under a convention it has ratified. At its eighty-sixth session in 1998 the International Labour Conference adopted the ILO Declaration on Fundamental Principles and Rights at Work. The Declaration relates to forced labour and the follow-up annexed to the Declaration provides for two new monitoring reporting mechanisms that will afford a dynamic global picture relating to each category of fundamental principles and rights noted during the preceding four-year period.

56. Most international mechanisms for implementation have been developed since the advent of the treaties which prohibit slavery and slavery-like practices and thus did not incorporate procedures which are indispensable for monitoring compliance with human rights obligations.

XII. CONCLUSION

57. There is no mechanism for the monitoring and enforcement of States' obligations to abolish slavery and related practices and the Working Group has not yet taken over this responsibility in a systematic fashion. The right of all individuals to be free from slavery is a basic human right; yet this lack of an adequate implementation procedure does little to encourage Member States to establish safeguards against all contemporary forms of slavery. The Working Group's mandate could be extended to incorporate such a function to provide for a systematic review procedure. Alternatively, the Working Group could improve its own procedures to focus on thematic issues relevant to the prevention of slavery. Another option would be for the Working Group to be reformed into a Special Rapporteur of the Commission on Human Rights. The Working Group should consider these options at its forthcoming session.